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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A PROPOSAL FOR LEGISLATION TO PROMOTE ECONOMIC REVITALIZATION AND FACILITATE EXPANSION OF ECONOMIC OPPORTUNITY IN THE CARIBBEAN BASIN REGION

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To the Congress of the United States:

On February 24, before the Organization of American States, I outlined a major new program for economic cooperation for the Caribbean Basin. Today I am transmitting this plan to the Congress for its action.

The economic, political and security challenges in the Caribbean Basin are formidable. Our neighbors need time to develop representative and responsive institutions, which are the guarantors of the democracy and justice that freedom's foes seek to stamp out. They also need the opportunity to achieve economic progress and improve their standard of living. Finally, they need the means to defend themselves against attempts by externally-supported minorities to impose an alien, hostile and unworkable system upon them by force. The alternative is further expansion of political violence from the extreme left and the extreme right, resulting in the imposition of dictatorships and—inevitably—more economic decline, and more human suffering and dislocation.

Today, I seek from the Congress the means to address the economic aspect of the challenge in the Caribbean Basin—the underlying economic crisis which provides the opportunities which extremist and violent minorities exploit.

The crisis facing most of the Basin countries is real and acute. Deteriorating trade opportunities, worldwide recession, mounting debt burdens, growing unemployment and deep-seated structural problems are having a catastrophic impact throughout the region. This economic disaster is consuming our neighbors' money reserves and credit, forcing thousands of people to emigrate, and shaking even the most established democracies.

This is not a crisis we can afford to ignore. The people of the Caribbean Basin are our neighbors. Their well-being and security are in our own vital interest. Events occurring in the Caribbean Basin can affect our lives in profound and dramatic ways. The migrants in our midst are a vivid reminder of the closeness of this problem to all of us.

The program I am presenting to Congress today is integrated and designed to improve the lives of the peoples of the Caribbean Basin by enabling them to earn their own way to a better future. It builds on the principles of integrating aid, self-help and participation in trade and investment which I emphasized at the Cancun Summit last October. It is a different kind of assistance program for developing countries, based on principles and practices which are uniquely American and which we know have worked in the past. It will help revitalize the economies of this strategically critical region by attacking the underlying causes of economic stagnation. Most significantly, it helps expand economic opportunities for the people of the Caribbean Basin to make possible the achievement of a lasting political and social tranquility based on freedom and justice.

I want to emphasize that this program is not an end in itself. What we seek in the final analysis is to help the people in the Basin build for themselves a better life, not just economically but across the full spectrum of human needs and aspirations. History, and particularly the history of this Hemisphere, has shown that a pluralistic society with strong, free private institutions—churches, free trade unions, businesses, professional and other voluntary associations, and an independent press—is our best hope in moving toward that ultimate goal.

Our development program takes this into account; it will encourage progress in the beneficiary countries toward reasonable workplace conditions and opportunities for workers to associate freely and bargain collectively.

The United States has been developing this program in close consultation with the countries of the region and with other donor countries. Last July, we joined with Canada, Mexico and Venezuela to launch a multilateral action program for the region. It was agreed that each country would develop its own program but within a multilateral consultative framework. Mexico and Venezuela are operating an oil facility for the Caribbean Basin. Canada is more than doubling its aid. The program I am presenting today is our contribution.

We have worked carefully with both government officials and the private sector in the Basin countries to assess their needs and their own priorities. We have also consulted with other potential donors, including Colombia, as well as multilateral development institutions. This program is part of an overall coordinated effort by countries within and outside the region. Its structure will ensure not only that our own actions will be effective, but that their impact will be multiplied by the efforts of many others.

The program is based on integrated and mutually-reinforcing measures in the fields of trade, investment and financial assistance:

Its centerpiece is the offer of one-way free trade. I am requesting authority to eliminate duties on all imports from the Basin except textiles and apparel items subject to textile agreements. The only other limitation will be for sugar; as long as a sugar price support program is in effect, duty-free imports of sugar will be permitted only up to specified ceilings. Safeguards will be available to U.S. industries seriously injured by increased Basin imports. Rules of origin will be liberal to encourage investment but will require a minimum amount of local content (25 percent). I will designate beneficiary countries taking into account such factors as the countries' self-help policies.

I am proposing an extension of the 10 percent tax credit that now applies only to domestic investment to new equity investments in qualifying Caribbean Basin countries. A country would qualify for the benefit for a period of five years by entering into a bilateral executive agreement with the U.S. to exchange information for tax administration purposes.

I am requesting a supplemental appropriation for the fiscal year 1982 foreign assistance program in the amount of $350 million in emergency economic assistance. This assistance will help make possible financing of critical imports for the private sector in Basin countries experiencing a severe credit crunch. I expect to allocate the emergency supplemental in the region as follows:

El Salvador: $128 million. El Salvador's economy is in desperate straits. The insurgents have used every tactic of terrorism to try to destroy it. El Salvador desperately needs as much assistance to stimulate production and employment as we can prudently provide while also helping other countries of the region.

Costa Rica: $70 million. Costa Rica has a long tradition of democracy which is now being tested by the turmoil of its economy. Once Costa Rica has embarked on a recovery plan, it will need significant assistance to succeed in restoring investor confidence and credit to its hard-hit private sector.

Honduras: $35 million. The poorest country in the Central American region, Honduras faces severe balance of payments constraints, spawned primarily from falling prices of major exports and rising import costs.

Jamaica: $50 million. Jamaica's recovery is under way but continued success is still heavily dependent on further quick-disbursing assistance to overcome a shortage of foreign exchange for raw materials and spare parts.

Dominican Republic: $40 million. The Dominican Republic is attempting to adjust to drastically-reduced economic activity brought on primarily by falling prices of its major export crop (sugar) and heavy dependence on imported oil. Critical economic reforms must take place in a difficult political climate as elections grow near. Once the free trade provisions go into effect, the Dominican Republic will also receive as a result of the duty-free quota for its sugar exports immediate benefits going beyond the $40 million indicated here.

Eastern Caribbean: $10 million. Economic stagnation has dried up investment and strangled development in these island mini-states where unemployment is a particular problem, especially among youths.

Belize: $10 million. Newly-independent Belize faces a perilous economic situation brought on by falling sugar prices and stagnant growth. Belize needs short-term assistance as a bridge to the development of its own considerable natural resources.

Haiti: $5 million. Illegal immigration from Haiti is spurred by stagnant economic activity and a credit-starved private sector in a country already desperately poor.

Latin American Regional/American Institute for Labor Development (AIFLD): $2 million. Free labor movements, assisted by our small AIFLD programs, can be the underpinning of a healthy private sector and its ability to expand and grow, leading the region to stable social and economic progress.

In a separate action I am also requesting action on the economic assistance program for FY 1983. This includes $664 million in economic assistance for the Caribbean Basin. This program will be directed largely into longer-term programs aimed at removing basic impediments to growth. Although not a part of the legislation which I am transmitting today, the FY 1983 aid request is an integral part of our overall program for the Caribbean Basin. We cannot think of this program as a one-time injection of U.S. interest and effort. If it is to succeed it must be a sustained commitment over a number of years. I strongly urge the Congress to approve this request in full.

In addition to these legislative requests, I am directing the following actions, which are within the discretion of the Executive Branch:

We will extend more favorable treatment to Caribbean Basin textile and apparel exports within the context of our overall textile policy.

We will seek to negotiate bilateral investment treaties with interested countries.

We will work with multilateral development banks and the private sector to develop insurance facilities to supplement OPIC's political risk insurance coverage for U.S. investors.

The U.S. Export-Import Bank will expand protection, where its lending criteria allow, for short-term credit from U.S. banks, as well as local commercial banks, to Caribbean Basin private sectors for critical imports.

With the governments and private sectors of interested countries, we will develop private sector strategies for each country. These strategies will coordinate and focus development efforts of local business, U.S. firms, private voluntary organizations, the U.S. Government, and Puerto Rico and the Virgin Islands. The strategies will seek new investment and employment opportunities and will also seek to remove impediments to growth including lack of marketing skills, trained manpower, poor regional transport, and inadequate infrastructure.

Puerto Rico and the U.S. Virgin Islands have a long-standing special relationship with the United States. Their development must be enhanced by our policy toward the rest of the region. We have consulted closely with Puerto Rico and the Virgin Islands about the Caribbean Basin Initiative and the legislation I am requesting today will reflect Puerto Rican and Virgin Island interests in many important ways.

The Accelerated Cost Recovery System (ACRS) and the Investment Tax Credit (ITC) will be extended to property used by companies operating in Puerto Rico and the U.S. Virgin Islands. Similar benefits will be available to other U.S. possessions.

Excise taxes on all imported rum will be transferred to Puerto Rico and the Virgin Islands.

Inputs into Caribbean Basin production from Puerto Rico and the U.S. Virgin Islands will be considered domestic inputs from Caribbean Basin countries for purposes of the rules of origin.

Industries in Puerto Rico and the Virgin Islands will have access to the same safeguards provisions as mainland industries.

In addition, we will support proposed legislation which will permit products from the Virgin Islands whose foreign content does not exceed 70 percent to receive duty-free treatment. At present the maximum foreign content permitted is 50 percent.

To further the integrated agricultural development of the Caribbean Basin, we will make greater use of the agricultural and forestry research, extension and training facilities of the Federal Government and those of Puerto Rico and the United States Virgin Islands, especially the tropical agricultural research facility at Mayaguez, Puerto Rico.

All these elements in the Caribbean Basin program are inextricably linked together, and to the fundamental objective of helping our neighbors help themselves. A key principle of the program is to encourage a more productive, competitive and dynamic private sector, and thereby provide the jobs, goods and services which the people of

the Basin need for a better life for themselves and their children. All the elements of this program are designed to help establish the conditions under which a free and competitive private sector can flourish.

Most countries in the Basin already recognize that they must reform many of their economic policies and structures in profound and sometimes painful ways in order to take advantage of the new economic opportunities of this program. We—the United States and other outside donors—can offer assistance and support, but only the people in the Basin themselves can make this program work.

Some of the benefits of this program will take considerable time to mature; others are designed to have an immediate effect. But the challenge is already upon us; the time to begin is now. I urge the Congress to act with maximum speed.

I also urge the Congress to consider very carefully any changes in this program. The actions in trade, aid and investment are interrelated. Each supports the other, so that together they comprise a real spur toward the entrepreneurial dynamism which the area so badly needs. A significant weakening in any of them could undermine the whole program.

In the Caribbean Basin, we seek above all to support those values and principles that shape the proud heritage of this Nation and this Hemisphere. With the help of this Congress, we shall see these values not only survive but triumph in a Caribbean Basin which is a community of peace, freedom and prosperity.

RONALD REAGAN.

THE WHITE HOUSE, *March 17, 1982.*

A BILL

To promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Caribbean Basin Economic Recovery Act."

TITLE I - DUTY-FREE TREATMENT

SECTION 101. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions in this title.

SECTION 102. BENEFICIARY COUNTRY.

(a) (1) For purposes of this Act, the term "beneficiary country" means any country in subsection (b) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary

country for purposes of this title. Before the President designates any country as a beneficiary country for purposes of this Act, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(2) If the President has designated any country as a beneficiary country for purposes of this Act, he shall not terminate such designation (either by issuing a proclamation for that purpose or by issuing a proclamation which has the effect of terminating such designation) unless, at least 60 days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation, together with the considerations entering into such decision.

(3) For purposes of this title, the term "country" means any foreign country, or any overseas dependent territory or possession of a foreign country.

(b) In designating countries as "beneficiary countries" under this Act, the President shall consider only the following countries and territories or successor political entities:

Anguilla
Antigua and Barbuda
Bahamas, The
Barbados
Belize
Costa Rica
Cuba
Dominica
Dominican Republic
El Salvador
Grenada
Guatemala
Guyana
Haiti
Honduras
Jamaica
Nicaragua
Panama
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago
Cayman Islands
Montserrat
Netherlands Antilles
Saint Christopher-Nevis
Turks and Caicos Islands
Virgin Islands, British

In addition, the President shall not designate any country a beneficiary country under this Act --

(1) If such country is a Communist country;

(2) If such country --

(A) has nationalized, expropriated, or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational

conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless --

(D) the President determines that --

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute; or

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and he reports those assurance to the Congress.

Paragraphs (1), (2) and (3) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) In determining whether to designate any country a beneficiary country under this Act, the President shall take into account--

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement of Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to promote its own economic development; and

(8) the degree to which workers in such country are afforded reasonable work-place conditions and enjoy the right to organize and bargain collectively.

(d) General headnote 3(a) to the Tariff Schedules of the United States (19 U.S.C. 1202) (relating to products of insular possessions) is amended by adding at the end thereof the following paragraph:

"(iv) Subject to the provisions in Section 103 of the Caribbean Basin Economic Recovery Act, articles which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such articles when they are imported from a beneficiary country under such Act."

(e) The President shall, after complying with the requirements of subsection (a)(2), withdraw or suspend the designation of any country as a beneficiary country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

SECTION 103. ELIGIBLE ARTICLES

(a) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article if--

(1) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(2) the sum of (A) the cost or value of the materials produced in a beneficiary country or 2 or more

beneficiary countries, plus (B) the direct costs of processing operations performed in such beneficiary country or countries is not less than 25 percent of the appraised value of such article at the time of its entry into the customs territory of the United States. For purposes of determining this percentage the term "beneficiary country" shall include the Commonwealth of Puerto Rico and the Virgin Islands of the United States.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection.

(b) The duty-free treatment provided under this title shall not apply to textile and apparel articles which are subject to textile agreements.

(c) For such period as there is in effect a proclamation issued by the President pursuant to the authority vested in him by Section 22 of the Agricultural Adjustment Act, as amended, (7 U.S.C. 624) to protect a price support program for sugar beets and sugarcane, the importation and duty-free treatment of sugars, sirups, and molasses classified under items 155.20 and 155.30 of the Tariff Schedules of the United States shall be governed in the following manner:

(A) (1) For all beneficiary countries, except those subject to subparagraphs A(2) and B below, duty-free treatment shall be provided in the same manner as it is provided pursuant to Title V of the Trade Act of 1974 (19 U.S.C. 2461 et. seq.), at

the time of enactment of this Title: provided, however, that the President upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the value limitation provided for in Section 504(c)(1) of the Trade Act of 1974 on the duty-free treatment afforded to beneficiary countries under this section if he finds that such adjustment will not interfere with the price support program for sugar beets and sugarcane and is appropriate in light of market conditions.

(2) As an alternative to subparagraph (A)(1), the President may, at the request of a beneficiary country not subject to subparagraph (B) and upon the recommendation of the Secretary of Agriculture, elect to permit sugar, sirups and molasses from that country to enter duty-free during a calendar year subject to quantitative limitations to be established by the President on the quantity of sugar, sirups and molasses entered from that country.

(B) For the following countries whose exports of sugar, sirups and molasses in 1981 were not eligible for duty-free treatment because of the operation of Section 504(c) of the Trade Act of 1974, the quantity of sugar, sirups and molasses which may enter the customs territory of the United States in any calendar year shall be

limited to no more than the quantity specified below:

Dominican Republic	780,000 metric tons
Guatemala	210,000 metric tons
Panama	160,000 metric tons

Such sugar, sirups and molasses shall be admitted free of duty, except as provided for in subparagraph (C).

(C) The President, upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the quantitative limitations imposed under subparagraphs A(2) and B if he determines such action will not interfere with the price support program for sugar beets and sugarcane and is appropriate in light of market conditions. The President, upon the recommendation of the Secretary of Agriculture, may suspend the duty-free treatment for all or part of the quantity of sugar, sirups and molasses permitted to be entered by subparagraphs A(2) and B if such action is necessary to protect the price support program for sugar beets and sugarcane.

(d) (1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed pursuant to section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962. Any Proclamation

issued pursuant to section 203 of the Trade Act of 1974 in effect when duty-free treatment pursuant to section 101 of this title is proclaimed shall remain in effect until modified or terminated.

(2) In any report by the International Trade Commission to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries. With respect to any article which is subject to import relief in effect at the time duty-free treatment is proclaimed pursuant to section 101 of this title, the President may reduce or terminate the application of such import relief to imports from beneficiary countries prior to its otherwise scheduled date pursuant to the criteria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

(3) For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, as amended, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation which provides solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be made under

subsection (a) and (c) of section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 201 (b) of the Trade Act of 1974, determines in the course of its investigation under section 201(b) that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(e) (1) If a petition is filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within 14 days after the filing of a petition under paragraph (1) of this subsection:

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive

with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to subparagraph 2 of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by subparagraph 3 of this subsection shall cease to apply (1) upon the proclamation of import relief pursuant to section 202(a)(1) of the Trade Act of 1974, (2) on the day the President makes a determination pursuant to section 203(b)(2) not to impose import relief, (3) in the event of a report of the United States International Trade Commission containing a negative finding, on the day the Commission's report is submitted to the President, or (4) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection the term "perishable product" shall mean --

(A) fresh or chilled vegetables provided for in TSUS items 135.10 through 138.42;

(B) fresh mushrooms provided for in TSUS item 144.10;

(C) fresh fruit provided for in TSUS items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21, and 149.50; and

(D) fresh cut flowers provided for in TSUS items 192.17, 192.18 and 192.21.

(f) No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SECTION 104. MEASURES FOR PUERTO RICO AND U.S. INSULAR POSSESSIONS

(a) Item 813.31 of Schedule 8 of the Tariff Schedule of the United States (19 U.S.C. 1202) is amended by striking out "4 liters" and inserting in lieu thereof "5 liters", and by inserting after "United States, " ,"and not more than 4 liters of which shall have been produced elsewhere than in such insular possessions, ".

(b) If the sum of the amounts of taxes covered into the treasuries of Puerto Rico and the United States Virgin Islands

pursuant to section 302 of this Act is reduced below the amount that would have been covered over if the imported rum had been produced in Puerto Rico or the United States Virgin Islands, then the President shall consider compensatory measures and, in this regard, may withdraw the duty-free treatment on rum provided by this title. The President shall submit a report to the Congress on the measures he takes.

(c) Section 1112 of the Trade Agreements Act of 1979 (19 U.S.C. 2582) is repealed.

(d) No action pursuant to this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) on coffee imported into Puerto Rico.

(e) For purposes of chapter 1 of Title II of the Trade Act of 1974, the term industry shall include producers located in the United States insular possessions.

SECTION 105. TIME LIMIT TO ACT.

No duty-free treatment under this Act shall remain in effect after the date which is 12 years after the date of the enactment of this Act.

TITLE II - EMERGENCY ECONOMIC ASSISTANCE

SECTION 201. EMERGENCY ECONOMIC ASSISTANCE

There are authorized to be appropriated for the fiscal year 1982, in addition to funds otherwise available for such purposes, $350 million to carry out the purposes of Chapter 4 of Part II of the Foreign Assistance Act of 1961, as amended, for countries in the Caribbean Basin (which shall include the states of Central America).

TITLE III - TAX PROVISIONS

SECTION 301. AMENDMENT OF INTERNAL REVENUE CODE OF 1954

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SECTION 302. PAYMENT OF EXCISE TAXES COLLECTED ON RUM TO PUERTO RICO AND THE UNITED STATES VIRGIN ISLANDS

(a) IN GENERAL-- Section 7652 is amended by inserting after subsection (b) the following new subsection:

"(c) Shipments of rum to the United States.-

"(1) Disposition of excise taxes on rum.- All taxes collected under section 5001 on rum imported into to the United States (less the estimated amount necessary for payment of refunds and drawbacks) shall be covered into the treasuries of Puerto Rico and the Virgin Islands, provided, however, that the amount of such taxes covered over to Puerto Rico and the Virgin Islands under this subsection shall not exceed the taxes which would be covered over if the rum had been produced in Puerto Rico or the Virgin Islands and transported to the United States. The Secretary shall

by regulation prescribe a formula for the division of such tax collections between Puerto Rico and the Virgin Islands and the timing and methods for covering over of such tax collections.

"(2) Rum.- The term "rum" means alcoholic spirits classified under Items 169.13 and 169.14 of the Tariff Schedules of the United States (19 U.S.C. 1202)."

SECTION 303. EXTENSION OF INVESTMENT TAX CREDIT FOR CARIBBEAN BASIN PROPERTY

(a) CREDIT FOR CARIBBEAN BASIN PROPERTY-- Section 48(a)(2)(B) is amended by inserting immediately after subparagraph (xi) the following new subparagraph:

"(xii) Caribbean Basin property (within the meaning of subsection (q)) which is placed in service after [the date of enactment] and before [five years after the date of enactment]."

(b) DEFINITION OF CARIBBEAN BASIN PROPERTY-- Section 48 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) Caribbean Basin Property Defined.-- For purposes of this section --

"(1) In general. -- The term "Caribbean Basin property" means section 38 property (as defined in section 38(a)(1)), which is used predominantly in a qualifying country (as defined in paragraph (2)) or any two or more qualifying countries, other than property which has previously been used predominantly in a beneficiary country (as defined in section 102(a)(1) of the Caribbean Basin Economic Recovery Act).

"(2) Qualifying Country. -- The term "qualifying country" means any beneficiary country (as defined in section 102(a)(1) of the Caribbean Basin Economic Recovery Act), which is a party to a bilateral executive agreement with the United States providing for the exchange of information between the United States and the beneficiary country.

"(3) Authority to Conclude Exchange of Information Agreements. -- The Secretary or his delegate is authorized to negotiate and conclude an agreement for the exchange of information with any beneficiary country (as defined in section 102(a)(1) of the Caribbean Basin Economic Recovery Act). An exchange of information agreement shall provide for the exchange of

such information, not limited to information concerning nationals or residents of the United States or the beneficiary country, as may be necessary and appropriate to carry out and enforce the tax laws of the United States and the beneficiary country, including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country such as provisions respecting bank secrecy and bearer shares. The exchange of information agreement shall be terminable by either country on reasonable notice and shall provide that information received by either country will be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment, collection, or determination of appeals in respect of taxes of the United States or the beneficiary country."

(c) CARIBBEAN BASIN PROPERTY USED PREDOMINANTLY OUTSIDE UNITED STATES FOR PURPOSES OF ACCELERATED COST RECOVERY SYSTEM. -- Section 168(f)(2)(D) is amended by inserting after the words "under subparagraph (B)" the words "other than clause (xii)".

(d) CREDIT MAY NOT BE USED BY FOREIGN CORPORATION.-- Section 882(b) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Investment credit not allowed for Caribbean Basin property.- Foreign corporations shall not be allowed the section 38 credit with respect to Caribbean Basin property (as defined in section 38(q)(1)."

SECTION 304. PASS-THROUGH OF CREDIT TO FIVE PERCENT UNITED STATES SHAREHOLDER OF FOREIGN CORPORATION

Section 46 is amended by inserting after subsection (h) the following new subsection:

"(i) SPECIAL RULES FOR FOREIGN CORPORATIONS INVESTING IN CARIBBEAN BASIN PROPERTY.--

"(1) In general.- A United States person who owns five percent or more in value of the outstanding stock of a foreign corporation shall be deemed for purposes of section 38 to have made a qualified investment (within the meaning of subsection (c)) or qualified progress expenditures (within the meaning of subsection (d)) in an amount equal to the lesser of -

"(A) the shareholder's pro rata share of the foreign corporation's aggregate qualified investment in Caribbean Basin property (without regard to the taxable year, ending after [the date of enactment], in which such property was placed in service and without regard to adjustments to the basis of such property under section 1016(a)(2)), determined on the last day of the

taxable year of the foreign corporation ending in or on the last day of the shareholder's taxable year, or

"(B) an amount equal to the excess of

"(I) the shareholder's basis in the stock of the foreign corporation at the end of the shareholder's taxable year (without regard to adjustments to the basis of the shareholder's stock under section 551 or section 961, or as a consequence of a consent dividend under section 565), over

"(II) the shareholder's basis in the stock of the foreign corporation on [the date of enactment],

reduced by the amount of qualified investment of the foreign corporation with respect to which the shareholder has previously used an investment credit under section 38.

"(2) Regulations. - The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing rules for the application of section 47 (relating to certain dispositions, etc., of section 38 property) and section 46(c)(8) (relating to at risk limitations) with respect to the shareholder's qualified investment under this subsection in a

manner similar to their application to shareholders of an electing small business corporation (within the meaning of section 1371)."

SEC. 305 RECAPTURE OF CREDIT

Section 47(a) is amended by inserting after paragraph (8) the following new paragraph:

"(9) Special Rules for Caribbean Basin property - If during any taxable year any Caribbean Basin property (as defined in section 48(q)) taken into account in determining qualified investment under section 46(c) or section 46(d) is used predominantly outside a qualifying country (as defined in section 48(q)(2)) or two or more qualifying countries, or the United States, such property shall cease to be Caribbean Basin property in such taxable year. Property shall not cease to be Caribbean Basin property because a qualifying country in which the property is used ceases to be a qualifying country."

SECTION 306. EXTENSION OF INVESTMENT TAX CREDIT AND ACCELERATED COST RECOVERY TO PROPERTY OWNED OR USED BY CERTAIN CORPORATIONS AND CITIZENS ENGAGED IN TRADE OR BUSINESS IN PUERTO RICO OR OTHER POSSESSIONS

(a) EXTENSION OF INVESTMENT TAX CREDIT AND ACCELERATED COST RECOVERY. -- Section 48(a)(2)(B) (vii) is amended to read as follows:

"(vii) any property which is owned by a domestic corporation or by a United States citizen and which is used predominantly in a possession of the United States by such a corporation or a citizen, or by a corporation created or organized in, or under the law of, a possession of the United States;"

(b) PASS-THROUGH OF INVESTMENT TAX CREDIT AND ACCELERATED COST RECOVERY DEDUCTIONS TO CERTAIN SHAREHOLDERS OF DOMESTIC CORPORATIONS ELECTING UNDER SECTION 936 OR ENTITLED TO BENEFITS OF SECTION 934(B). --

(1) SECTION 936 CORPORATIONS. -- Section 936 is amended by inserting after subsection (g) the following new subsection (h):

"(h) PASS-THROUGH OF CERTAIN TAX ATTRIBUTES. --

"(1) In general. -- If a corporation with respect to which an election provided in subsection (a) is in effect for the taxable year (the "electing corporation") would be a member of an affiliated group under the rules of section 1504(a) (without regard to section 1504(b)(4)), then a corporation which would be

a member of such affiliated group and which owns common stock of the electing corporation shall be allowed as a credit against the tax imposed by this chapter its pro rata share of the amount determined under section 38 and as a deduction its pro rata share of fifty percent of the amount determined under section 168 with respect to property owned by the electing corporation. A corporation with respect to which an election provided in subsection (a) is in effect for the taxable year shall not be allowed a credit under section 38 or a deduction under section 168 if one or more of the shareholders of such corporation qualify for the benefits of this paragraph.

"(2) Regulations. -- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including but not limited to regulations providing rules for the application of section 46(c)(8) (relating to at risk limitations on qualifying investment in section 38 property), section 47 (relating to certain dispositions, etc., of section 38 property), section 465 (relating to at risk limitations on deductions), section 1245 (relating to certain dispositions of depreciable property) and section 1250 (relating to certain dispositions of depreciable realty)."

(2) SECTION 934(B) CORPORATIONS. -- Section 934 is amended by inserting after subsection (d) the following new subsection (e):

"(e) PASS-THROUGH OF CERTAIN TAX ATTRIBUTES TO CERTAIN DOMESTIC CORPORATIONS. --

"(1) In general. -- If a domestic 934(b) corporation would be a member of an affiliated group under the rules of section 1504(a) (without regard to section 1504(b)(8)), then a corporation which would be a member of such affiliated group and which owns common stock of the domestic 934(b) corporation shall be allowed as a credit against the tax imposed by this chapter its pro rata share of the amount determined under section 38 and as a deduction its pro rata share of fifty percent of the amount determined under section 168 with respect to property owned by the domestic 934(b) corporation. A corporation which is a domestic 934(b) corporation for the taxable year shall not be allowed a credit under section 38 or a deduction under section 168 if one or more of the shareholders of such corporation qualify for the benefits of this paragraph.

"(2) Domestic 934(b) corporation. -- The term "domestic 934(b) corporation" means a domestic corporation satisfying the conditions of paragraph (1) and paragraph (2) of section 934(b) for the taxable year.

"(3) Regulations. -- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including but not limited to regulations providing rules for the application of section 46(c)(8) (relating to at risk limitations on qualifying investment in section 38 property), section 465 (relating to at risk limitations on deductions), section 1245 (relating to

certain dispositions of depreciable property) and section 1250 (relating to certain dispositions of depreciable realty)."

(3) TECHNICAL AMENDMENTS. -- Section 1504(b) is amended by inserting after paragraph (7) the following new paragraph:

"(8) A domestic 934(b) corporation, as defined in section 934(e)(2)."

SECTION 307. EXCEPTIONS TO DEFINITION OF QUALIFIED LEASED PROPERTY

Section 168(f)(8)(D) is amended by striking out "(other than a qualified rehabilitated building within the meaning of section 48(g)(1))", by striking out the period after the words "under section 103(a)" and inserting the words ",and", and by inserting immediately thereafter the following new clause:

"(iv) which is not

(I) a qualified rehabilitated building within the meaning of Section 48(g)(1),

(II) Caribbean Basin property within the meaning of Section 48(q)(1), or

(III) property which is owned by a domestic corporation which has an election in effect under section 936 or a domestic 934(b) corporation, as defined in section 934(e)(2), or which is used by such a corporation or by a United States citizen entitled to the benefits of section 931, 932, 933, or 934 (c), or by a corporation created or organized in, or under the law of, a possession of the United States."

CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Section-by-Section Analysis

TITLE 1 - DUTY FREE TREATMENT

SECTION 101. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

This section provides the basic authority for the President to grant duty-free treatment to eligible articles from Caribbean Basin countries that are designated in accordance with the provisions in section 102. Eligible articles are articles which meet the requirements set forth in section 103. Exercise of this authority will allow the United States to establish a one-way free-trade arrangement with countries in the Caribbean Basin.

SECTION 102. DESIGNATION OF BENEFICIARY COUNTRIES.

Subsection (a)(1) sets forth the procedures and the criteria to be followed in designating countries and territories whose products will receive the duty-free treatment granted by this title. A beneficiary country is defined as a country which has been designated by the President as a beneficiary country pursuant to a Presidential proclamation. Subsection (a)(3) provides that the term "country" includes overseas dependent territories or possessions of a foreign country. Only the countries, territories or successor entities listed in subsection (b) will be eligible to be designated as beneficiary countries. When the President designates a country, he must notify the House

and Senate of his intention to do so and give the considerations that went into his decision.

Subsection (a)(2) requires that the President not terminate a country as a beneficiary country unless he notifies the Congress and the country sixty days in advance of his intentions. Termination is to be done by Presidential proclamation. The sixty-day requirement is included in order to give the affected beneficiary country advance notice and an opportunity to correct any condition or situation which has led to the decision to terminate. In addition, the advance notice will give importers an opportunity to make adjustments in import contracts.

Subsection (b)(1) sets forth the mandatory conditions which a country must meet to qualify for designation. A communist country, such as Cuba, would not be eligible for designation. Countries which expropriate U.S. property would not be eligible for duty-free treatment unless the President determines and notifies the Congress that the country is providing for the payment of prompt, adequate and effective compensation, is entering into bona fide negotiations to provide such compensation in accordance with international law or is submitting a dispute over compensation to international arbitration. Countries which grant reverse preferences that have a significant adverse effect on U.S. commerce could not be designated unless the President has received assurances that such preferential treatment will be eliminated or action taken to assure that there will be no adverse effect and reports these assurances to the Congress. This provision is consistent with the purpose of the legislation to

increase the opportunities for exports from the Caribbean to the United States rather than to gain preferential U.S. access to markets in the Caribbean. While the United States would welcome other developed countries granting preferential treatment to the Caribbean Basin states, it would not want to see them seek preferential access in Caribbean markets in exchange.

The requirements for non-communist status, compensation on expropriation and adherence to arbitral awards will not prevent the designation of a country as a beneficiary country if the President determines that such designation is in the national economic or security interests of the United States and so reports to Congress.

Subsection (c) sets forth the factors the President is expected to take into account in designating beneficiary countries. These factors, unlike the conditions in subsection (b), are not mandatory, and no one is controlling, but they are factors that are relevant in ensuring that the designation of a country will further the intent of this Act to promote the development of the economies of the Caribbean states. Therefore, we will discuss with beneficiary countries these criteria before designation. The President is required in designating countries to consider: (a) whether the country has expressed a desire to be designated; (b) the economic conditions in such country; (c) whether the country is prepared to provide equitable and reasonable access to its market and resources in order that they may be developed in the best interest of its economy; (d) the degree to which a country follows the accepted rules of

international trade and can exercise the self-discipline required by those rules; (e) the degree to which such country uses export subsidies, export performance requirements and local content requirements which distort international trade (such requirements include requirements that manufacturers export a specific portion of their output or use specific proportions of local content in their products); (f) the degree to which the trade policies that the country follows in its dealings with other beneficiary countries are contributing to revitalization of the region; (g) the degree to which a country is undertaking self-help measures to promote its own economic development; and (h) the degree to which workers in such country are afforded reasonable work-place conditions and enjoy the right to organize and bargain collectively.

Subsection (d) amends General Headnote 3(a) of the Tariff Schedules of the United States to extend to the insular possessions of the United States the same treatment, including the origin rules and other limitations in section 103, that is extended to beneficiary developing countries. Therefore, if the treatment extended under this title to an article from a beneficiary country is more favorable than such article when imported from the insular possessions receives under any other provision of law, the article from the insular possessions would be eligible for the more favorable treatment provided by this title.

Subsection (e) requires the President to withdraw or suspend the designation of any beneficiary country, after giving the

required sixty-days notice to the Congress and the country, if he determines that because of changed conditions such country should no longer be treated as a beneficiary country.

SECTION 103. ELIGIBLE ARTICLES.

This section sets forth the criteria for determining which articles are eligible for duty-free treatment. All products will be eligible for duty-free treatment except certain textile and apparel articles, and, under certain conditions, sugar.

Subsection (a) provides that, in order to be eligible for duty-free treatment, an article must meet certain rules of origin to ensure that the benefits of duty-free treatment accrue to the designated beneficiary countries. First, an article must be imported directly from a beneficiary country into the customs territory of the United States. Second, the sum of the cost or value of the materials produced in a beneficiary country or beneficiary countries plus the direct cost of processing operations performed in such countries must equal or exceed 25 percent of the appraised value of the article. The Secretary of the Treasury will prescribe regulations for carrying out this section. The contribution of two or more beneficiary countries can be added together to meet the 25% requirement. This provision should foster cooperation among beneficiary countries. In calculating the value of the materials and the value-added, materials from or value-added in the Commonwealth of Puerto Rico and the Virgin Islands can also be included to meet the minimum

percentage of 25 percent. This provision should ensure that Puerto Rico and the Virgin Islands can benefit from the Caribbean Basin Program and that services or products from them can be employed by beneficiary countries in articles that qualify for duty-free treatment.

Duty-free treatment provided by this title will not be extended to textile and textile products which are subject to textile agreements.

Imports of sugar will be granted duty-free treatment. However, this duty-free treatment will be subject to value limitations under the U.S. Generalized System of Preferences or quantitative limitations during periods when proclamations under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended, are in effect providing for measures to prevent imports from interfering with domestic price support programs for sugar beets and sugarcane. The purpose of these provisions is to allow beneficiary countries to receive the benefits of duty-free treatment on sugar while at the same time not interfering with the domestic price support program on sugar. The duty-free treatment provided by the title does not apply to the fees imposed under Section 22 of the Agricultural Adjustment Act of 1933.

Sugar from all beneficiary countries except the Dominican Republic, Guatemala and Panama will receive the same treatment as is provided under the United States Generalized System of Preferences at the time of enactment. These beneficiary countries will therefore continue to be subject to the GSP

competitive need value limitation as it is adjusted annually according to the formula in subsection 504(c)(1) of the Trade Act of 1974. Beneficiary countries will continue to get the treatment provided by the U.S. GSP scheme at the time of enactment even if that scheme is later modified.

In addition, the President, upon the recommendation of the Secretary of Agriculture, can adjust upward the GSP competitive need value limitation for sugar imports from beneficiary countries if this will not interfere with the price support program and market conditions permit. The President has the authority under title V of the Trade Act of 1974 to withdraw GSP treatment for any item and could do so for sugar if necessary.

As an alternative, the President is authorized to establish an absolute quota on imports of sugar from a beneficiary country in lieu of subjecting the country to the provisions of the GSP scheme if the country requests this treatment and the Secretary of Agriculture so recommends. Such sugar would be imported duty-free. For example, beneficiary countries whose exports to the United States may exceed the competitive need value limitation might choose to submit to an absolute quota on their sugar imports into the United States in order to receive duty-free treatment every year when a price support program is in effect.

In the case of the three beneficiary countries whose exports of sugar are not currently eligible for duty-free treatment because they have exceeded the competitive need value limitation of the GSP scheme, an absolute quota on imports of sugar from them is imposed by paragraph (B) of subsection (c); this sugar will

enter duty-free. The three countries and the amount of sugar they will be permitted to export to the United States are as follows: Dominican Republic, 780,000 metric tons; Guatemala, 210,000 metric tons, and Panama, 160,000 metric tons. These quantities reflect the levels of recent imports to the United States from these countries.

Subparagraph (C) permits the President to suspend or adjust upward absolute quotas imposed on countries whose sugar exports are not governed by the GSP scheme if such action will not interfere with the price support program and market conditions permit this liberalization to take place. This authority parallels the authority in subparagraph (A)(1). In addition, the President can also reduce or suspend the quota on the quantity of duty-free sugar that is imported from countries whose sugar exports are not governed by the GSP scheme in order to protect the price support program. The President through the operation of the provisions in paragraph (C) might, if necessary, modify the quota regime by imposing an absolute quota on sugar imports from one of the countries covered by subparagraphs A(2) and B and within that quota, a subquota for duty-free imports.

The President is given wide discretion by this subsection to extend duty-free treatment to sugar imports from beneficiary countries within the context of the requirement to protect the price support program for sugar beets and sugarcane. However, this authority is not intended to be used to treat beneficiary countries less favorably than other suppliers of sugar to the United States; for example, it is not expected that duty-free

treatment for beneficiary countries would be substantially reduced while leaving absolute quotas in place.

Subsection (d)(1) authorizes the President to suspend the duty-free treatment of eligible articles granted by this title and impose a new duty when he imposes import relief pursuant to Title II of the Trade Act of 1974 or adjust imports so as not to impair the national security pursuant to section 232 of the Trade Expansion Act of 1962. This title does not in any way limit the authority of the President under Title II of the Trade Act of 1974 to grant relief from injury caused by import competition and to impose import relief on all imports of an article including imports from beneficiary countries. Subsection (d)(1) does permit the President if he so decides to impose a lower duty on imports from beneficiary countries than the duty he imposes on other imports and thereby maintain the margin of preference. Subsection d(1) also clarifies that existing import relief measures or adjustments to imports to protect the national security in effect at the time of enactment of this title shall continue in effect until modified or terminated.

Subsection (d)(2) provides that the International Trade Commission shall in its reports to the President state what effect duty-free imports from beneficiary countries have on the industry under investigation and, if it recommends import relief, to what extent its recommendations for import relief should apply to such duty-free imports. For purposes of Title II of the Trade Act of 1974 any recommendation for import relief regarding imports from beneficiary countries shall be considered as part of

a recommendation required by that title. In addition, the President may also terminate or modify import relief that is in effect at the time duty-free treatment is proclaimed pursuant to this title as regards import from beneficiary countries prior to the otherwise scheduled termination or reduction date. However, the President may only take this action after following the procedures in subsections 203(h) and (i) of the Trade Act of 1974 which requires that he obtain the advice of the International Trade Commission, the Secretary of Labor and the Secretary of Commerce.

Subsection (d)(3) authorizes the President to treat as an increase in duty for purposes of subsections 203(a) and (c) of the Trade Act of 1974, regarding the granting of import relief, the suspension of the duty-free treatment granted any article by this title. Subsection d(4) allows the President to take as the sole import relief measure (without imposing relief generally) the action authorized in subsection (d)(3) only if the International Trade Commission, in addition to making an affirmative determination, determines in the course of its investigation under section 201(b) of the Trade Act of 1974 that the serious injury to a domestic industry substantially caused by imports results from the article receiving duty-free treatment under this title.

Subsection (e) permits the President to take emergency action to prevent imports of perishable commodities from injuring United States agricultural producers. Because of the perishable nature of agricultural commodities and the need to dispose of them at any price once they are harvested, a surge of imports of

perishable commodities could seriously injure a domestic industry before relief could be imposed under the normal import relief statutes. Subsection (e) will allow agricultural producers to request emergency action at the same time or after they file a normal import relief petition by submitting their petition and a request to the Secretary of Agriculture. A petitioner can also file a request any time after he has filed a petition under section 201 of the Trade Act of 1974 and is not prohibited from refiling a request if his first request was denied and circumstances have changed. Upon the recommendation of the Secretary of Agriculture, the President can withdraw the duty-free treatment provided by this title and thereby restore the MFN duty rate. The Secretary of Agriculture is expected to make an affirmative recommendation whenever he has reason to believe that perishable products are being imported in such increased quantities that would warrant import relief being imposed under Chapter 1 of Title II of the Trade Act of 1974 and that emergency action is warranted. The Secretary of Agriculture has 14 days after receipt of a petition to either recommend that the President take emergency action, or to advise the petitioner that he will not so recommend. The President will have 7 days either to impose by proclamation import relief, or to publish a notice that he does not consider taking emergency action warranted.

The emergency action provided by this section is limited to the withdrawal of duty-free treatment and the restoration of the MFN duty. This emergency action shall terminate after the International Trade Commission has completed its investigation, and

(1) the President has published a proclamation implementing import relief as provided for in Title II of the Trade Act of 1974, (2) the President has made a determination not to impose import relief, or (3) the Commission has submitted a report containing a negative finding. The President can also terminate emergency relief before the USITC has reached a determination if he determines that because of changed circumstances such action is warranted. These emergency action provisions will not affect the normal import relief procedures since the Commission's investigation will still commence at the time a petition is filed and will not be affected by whether the President takes emergency action.

Subsection 5 identifies those perishable products on which the President is authorized to impose the emergency import relief provided for in this title.

SECTION 104. MEASURES FOR PUERTO RICO AND U.S. INSULAR POSSESSIONS

Section 104(a) would amend item 813.31 of the Tariff Schedule of the United States to permit returning residents arriving directly from U.S. insular possessions to import free of duty five instead of four liters of alcoholic beverages if one liter is a product of an insular possession.

Section 104(b) directs the President to consider measures to reduce the detrimental effect to Puerto Rico and the Virgin Islands of the United States that may occur if in the future the revenue provided by section 302 of this Act is reduced below the

amount that would have been provided if imported rum had continued to be treated as if it had been produced in Puerto Rico or the Virgin Islands. Among the measures the President is authorized to take is the withdrawal of the duty free treatment on rum provided by this title. The President is required to report to the Congress any action he takes. This section has been included to ensure that if at some future time due to an amendment to the provision in the Internal Revenue Code added by Section 302 the revenue that Puerto Rico and the Virgin Islands will receive by this Act is reduced, measures will be considered to make up this shortfall.

Section 104(c) repeals section 1112 of the Trade Agreements Act of 1979 (19 U.S.C. 2582). The only commodity which comes within the purview of this section is rum, with over 90 percent of U.S. rum imports coming from potential beneficiary countries. In view of the inclusion of section 302 of that Act, which mandates the rebate of excise taxes on rum to Puerto Rico and the Virgin Islands, section 1112 of the Trade Act of 1979 is unnecessary.

Section 104(d) provides that tariff duties on coffee imported into Puerto Rico imposed by the Legislature of Puerto Rico pursuant to the authority in section 319 of the Tariff Act of 1930 shall not be affected by this title.

Subsection (e) clarifies the definition of the term "industry" as used in the import relief chapter of Title II of the Trade Act of 1974 to make certain that a producer located in the U.S. insular possessions can file a petition under section

201 and can be considered to represent a domestic industry for purposes of such an investigation. A producer located in Puerto Rico is already included in the scope of the term "industry" and, therefore, this provision does not apply to Puerto Rico.

SECTION 105. TIME LIMITS TO ACT.

The President's authority to grant duty-free treatment under this title will be limited to twelve years.

Title II - EMERGENCY ECONOMIC ASSISTANCE

SECTION 201. EMERGENCY ECONOMIC ASSISTANCE

This section authorizes the appropriation of $350 million in Economic Support Fund assistance for obligation in fiscal year 1982, to be used for countries in the Caribbean Basin to carry out the purposes of the Economic Support Fund (Chapter 4 of Part II of the Foreign Assistance Act of 1961, as amended ("FAA")). These amounts are additional to other funds authorized to be appropriated under the FAA which also may be utilized for the countries of the Caribbean Basin.

The Caribbean Basin countries to be assisted under this supplemental authorization will be designated by the President and may include the countries of Central America and Panama, the islands of the Caribbean sea and certain countries of South America which border on the Caribbean.

The additional funds authorized under this Part will be used primarily to address the balance of payments and private sector credit shortfall resulting from economic deterioration and political turmoil in the region. Because of the emergency economic situation in many of the countries, such assistance may take the form of cash transfers. While such transfers would not necessarily be tied to specific import transactions, it is expected that as a condition of assistance the recipient countries will allocate substantial resources to the private sector for essential imports and working capital and other local cost requirements.

Title III - TAX PROVISIONS

SECTION 302 Payment of Excise Taxes Collected on Rum to Puerto Rico and the United States Virgin Islands

Section 302 amends section 7652 of the Internal Revenue Code (the "Code") to provide that the United States will transfer to Puerto Rico and the U.S. Virgin Islands the U.S. excise taxes collected on all rum imports, except that the collections transferred will not exceed the amount per unit of imported rum which Puerto Rico and the U.S. Virgin Islands receive with respect to their rum sales to the United States. The Secretary of the Treasury is directed to prescribe by regulation a formula for the division of such collections between Puerto Rico and the U.S. Virgin Islands and the timing and methods for covering over such tax collections.

SECTION 303 Extension of Investment Tax Credit For Caribbean Basin Property

Section 303 provides for a five year extension of the regular investment tax credit to property which generally would otherwise be eligible under present law for the investment tax credit (including tangible personal property and other tangible property, but generally not including buildings or structural components) and is used predominantly in a qualifying country ("Caribbean Basin property"). The investment tax credit rules

and limitations under present law will generally apply to investments in Caribbean Basin property.

Subsection (a) amends section 48(a)(2)(B) of the Code to add a new exception to the foreign use exclusion from the definition of section 38 property for "Caribbean Basin property" placed in service within five years of the date of enactment of the Act.

Subsection (b) amends section 48 of the Code to add a definition of Caribbean Basin property. The term "Carribean Basin property" is defined to mean section 38 property, as defined in section 48(a)(1) of the Code which is used predominantly in a "qualifying country" or in two or more qualifying countries, but which has not previously been used predominantly in a beneficiary country.

The term "qualifying country" is defined to mean a beneficiary country, as defined in section 102(a)(1) of the Act, which enters into a bilateral executive agreement with the United States for exchange of information. The Secretary of the Treasury or his delegate is authorized to conclude such agreements.

The exchange of information agreements are required to provide for the exchange of such information (not limited to information concerning nationals or residents of the two countries) as the Secretary considers necessary to carry out an enforce the tax laws of the United States, including information which may be subject to nondisclosure provisions of local law such as provisions respecting bank secrecy and bearer shares. The agreements shall also provide that either country may

terminate the agreement on reasonable notice and that information received by either country will be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment, collection, or administration, enforcement, prosecution or determination of appeals in respect of taxes of the United States or the beneficiary country. The Secretary may incorporate by reference in an exchange of information agreement the exchange of information provisions of an existing income tax treaty with a beneficiary country, but only if such provisions otherwise satisfy the requirements of the statute.

Subsection (c) amends section 168(f)(2)(D) of the Code to provide that Caribbean Basin property will constitute property used predominantly outside the United States for purposes of determining the recovery deduction under section 168.

Subsection (d) amends section 882 of the Code to deny use of the credit by a foreign corporation.

SECTION 304 Pass-Through of Credit to Five Percent United States Shareholder of Foreign Corporation

Section 304 amends section 46 of the Code to allow a pass-through of the investment tax credit to a United States shareholder who owns five percent or more in value of the outstanding stock of a foreign corporation with respect to his pro rata share of the foreign corporation's investment in Caribbean Basin property. The amount of the U.S. shareholder's qualified investment for purposes of determining the credit is

the excess of (i) the lesser of (x) the U.S. shareholder's pro rata share of the foreign corporation's qualified investment in Caribbean Basin property, determined on the last day of the taxable year of the foreign corporation and without regard for which taxable year (ending after the date of enactment of the Act) such property was placed in service, or (y) the increase of the U.S. shareholder's basis in the stock of the foreign corporation at the end of the shareholder's taxable year (without regard to basis adjustments under sections 551 or 961, or as a consequence of a consent dividend under section 565 of the Code) over his basis in such stock on the date of enactment, over (ii) the amount of qualified investment of the foreign corporation with respect to which the shareholder has previously taken a pass-through investment tax credit.

Subsection (b) authorizes the Secretary of the Treasury to promulgate regulations to carry out the purposes of the section, including rules relating to recapture and at risk limitations.

SECTION 305. RECAPTURE OF CREDIT

Section 305 amends section 47 of the Code to provide that the credit will be recomputed under the rules of section 47 upon the early disposition of Caribbean Basin property. Property will cease to qualify as Caribbean Basin property if the property is used predominantly in any taxable year outside a qualifying country or two or more qualifying countries, or the United States. Property will not cease to qualify as Caribbean Basin property because a beneficiary country no longer constitutes a

qualifying country, e.g., because an exchange of information agreement is terminated.

SECTION 306. Extension of Investment Tax Credit and Accelerated Cost Recovery To Property Owned or Used By Certain Corporations and Citizens Engaged in Trade or Business in Puerto Rico or United States Virgin Islands

Section 306 amends section 48(a)(2)(B)(vii) of the Code to allow property owned or used by (i) a corporation which has an election in effect under section 936 or which is entitled to the benefits of section 934(b) or (ii) a U.S. citizen entitled to the benefits of section 931, 932, 933 or 934(c), to be eligible for the investment tax credit. The amendment adds such property to an exception to the foreign use exclusion from the definition of section 38 property. The amendment also causes such property to be considered used predominantly in the United States for purposes of determining the recovery deduction under section 168 of the Code.

Subsection (b) amends sections 936 and 934 of the Code to provide that the investment tax credit and fifty percent of the recovery deductions which would be allowed to a corporation having an election in effect under section 936 (a "section 936" corporation) or a domestic corporation satisfying the conditions of section 934(b) (a "domestic 934(b)" corporation), shall be allowed on a pro rata basis to a corporation, or corporations,

(i) which would be in an affiliated group with the section 936 or domestic 934(b) corporation under the rules of section 1504(a) (without regard to section 1504(b)(4) or (b)(8) (which proscribe inclusion of a section 936 corporation or a domestic 934(b) corporation, respectively, in an affiliated group)), and (ii) which owns, or own, stock in the section 936 or domestic 934(b) corporation. A section 936 or domestic 934(b) corporation which has shareholders that qualify for the pass-through benefits will not otherwise be allowed a credit under section 38 or recovery deduction under section 168. The subsection also includes a technical amendment to section 1504(b) of the Code, relating to the definition of an "includible corporation", to exclude a domestic 934(b) corporation from the definition of "includible corporation." Only an "includible corporation" may be included in a consolidated tax return.

SECTION 307. Exceptions to Definition of Qualified Leased Property

Section 307 amends section 168 of the Code to provide that (i) property owned by a corporation electing the benefits of section 936 or entitled to the benefits of section 934(b), or which is used by such a corporation, by a U.S. citizen entitled to the benefits of section 931, 932, 933 or 934(c), or by a corporation created or organized in, or under the law of, a possession of the United States, and (ii) Caribbean Basin property, are excepted from the definition of qualified leased property and therefore are not eligible for safe harbor leasing.

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